

## PLANNING DEPARTMENT SHORELINE SETBACK APPLICATION

### FOR OFFICIAL USE ONLY:

SSD 201 8 - 29

Acceptance Date: 1-16-18

Website Posting Date: \_\_\_\_\_

Determination Date: \_\_\_\_\_

Planning Commission Date: \_\_\_\_\_

Expiration Date: \_\_\_\_\_

Planner Assigned: \_\_\_\_\_

**Instructions:** File all information requested under Part A for processing the Determination of Applicability (§8-27.1), including signature page. Fill out Parts A and B if you know that your parcel will require a Certified Shoreline Survey, due to the proximity to the shoreline. If you are proposing a permitted structure or subdivision within the shoreline setback area fill in Part C. For applications involving a variance, complete Part D.

### Applicant Information

Applicant: Kauai County Department of Water (attn: Bryan Wienand)

Mailing Address: P.O. Box 1706

Phone: 245-5449

Lihue, HI 96766

Email: bwienand@kauaiwater.org

Applicant's Status: (Check one)

☐ Owner of the Property

(Holder of at least 75% of the equitable and legal title)

☐ Lessee of the Property

Lessee must have an **unexpired and recorded** lease of five (5) years or more from the date of filing of this application. If not, Owner(s) must provide a Letter of Authorization.

☒ Authorized Agent

Attach Letter of Authorization (Right of Entry, attached)

Transmittal Date: \_\_\_\_\_

### Project Information (attach additional sheets, if necessary)

County Zoning District: OPEN

Tax Map Key(s): 2-1-002:001

Land Area: 25.989 acres for tax parcel

Nature of Development:  
(Description of proposed  
structure or subdivision)

53-foot long section of 16-inch water transmission line

**NO PERMITS WILL BE ISSUED WITHOUT PLANNING COMMISSION ACCEPTANCE,  
EXCEPT AS PROVIDED IN §8-27.8(c)(8)**

### Part A

#### Shoreline Setback Determination of Applicability (§8-27.1)

Check all that apply, fill in applicable information. Any box checked must be accompanied by additional information, photos and/or documentation.

1. Property is Abutting the Shoreline

☐ Proposed project's approximate distance from shoreline (based on aerial map): \_\_\_\_\_ ft.

2. Property is Not Abutting the Shoreline

☐ Proposed project's approximate distance from shoreline (based on aerial map): 4,959 447 ft. closest point

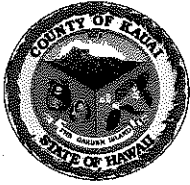
3. Additional Information:

☐ Shoreline Change (Erosion/Accretion) Rate: \_\_\_\_\_ ft./year

(Information available here: [www.soest.hawaii.edu/coasts/kauaicounty/KCounty.html](http://www.soest.hawaii.edu/coasts/kauaicounty/KCounty.html))

☒ Number and description of parcels (including roads, buildings, structures) between Shoreline and this parcel:

18 parcels: Port Allen Small Boat Harbor, roadway, open space, roadway, 9 houses, roadway, vacant property, Eleele Shopping Center, Ace Hardware, and vacant property



## PLANNING DEPARTMENT SHORELINE SETBACK APPLICATION

- ☐ Topography (undulating, flat, slope, etc.) and ground elevation of subject parcel (Lowest and Highest elevations)

On side slope, approximately 52 feet above sea level

- ☐ Shoreline type (e.g. beach, dune, rocky, sandy with rocky outcropping, etc.)

Sand beach shoreline approximately 1,950 feet away

- ☐ Artificially armored Shoreline

☐ If checked, what type of armoring (e.g. seawall, revetment, bulkhead): \_\_\_\_\_

☐ Is the armoring permitted/authorized? \_\_\_\_\_

☐ Date of authorization (attach copy of authorization letter): \_\_\_\_\_

- ☐ Is property in coastal floodplain (if checked, what zone)? NO

- ☐ Has this property been subject to coastal hazards (i.e. flooding, erosion, tsunami, etc.) in the past?

Not in floodplain, no coastal hazards

### PLEASE NOTE:

Any misrepresentation of information in this shoreline setback application will result in revocation of this determination and may result in fines and criminal prosecution.

### Applicant's Signature

Bryan W.  
Signature

1/11/2018  
Date

### Applicability (to be completed by Planning Department)

- ☒ **Setback Determination necessary.** Requirements of Ordinance No. 979 are applicable.

- ☐ **Setback Determination is NOT necessary.** Requirements of Ordinance No. 979 are not applicable.

[Signature]  
Planning Director or designee

1-16-18  
Date

If **Part A** has been deemed that a Determination will be necessary, the additional information will be required for submission of this application.

### Part B

- ☐ A non-refundable processing fee of **one hundred dollars (\$100.00)** shall accompany a request for determination. (§8-27.8(e))
- ☐ An aerial map/image (ex. Google Maps or Google Earth) with a line drawn from the shoreline/vegetation line (approximate shoreline) to the proposed project and the calculated distance in feet.
- ☐ A detailed Plot Plan **to scale** with all existing and proposed structures including driveways, visible lot coverage, setbacks and measurement details, fences, gates, and walls, etc.
- ☐ Building Permit Number (If building plans submitted)



## PLANNING DEPARTMENT SHORELINE SETBACK DETERMINATION

### Exemption Determination

☐

#### Exemption 1

In cases where the proposed structure or subdivision satisfies the following four criteria:

(A) In cases where the proposed structure or subdivision is located outside of the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM) 'V' or 'VE' flood zones;

(B) The proposed structure or subdivision is located at an elevation which is thirty (30) feet above sea level or greater;

(C) The applicant can demonstrate to the satisfaction of the Planning Director that the property is clearly adjacent to a rocky shoreline and that it will not affect or be affected by coastal erosion or hazards; and

(D) The shoreline setback shall be sixty (60) feet from the certified shoreline which has been established not more than twelve (12) months from the date of the application for the exception under this section.

☒

#### Exemption 2

In cases where the applicant can demonstrate to the satisfaction of the Planning Director that the applicant's proposed structure or subdivision will not affect beach processes, impact public beach access, or be affected by or contribute to coastal erosion or hazards, excluding natural disasters. Factors to be considered shall include, but not be limited to, proximity to the shoreline, topography, properties between shoreline and applicant's property, elevation, and the history of coastal hazards in the area.

☐

#### Exemption 3

Pursuant to §8-27.7, those structures and uses found exempt in Table 3 (see pg. 7) including repairs and renovations to a lawfully existing structure, including nonconforming structures, provided that:

(A) The repairs DO NOT enlarge, add to or expand the structure; increase the size or degree of non-conformity; or intensify the use of the structure or its impact on coastal processes;

(B) The repairs DO NOT constitute a substantial improvement of the structure; and

(C) The repairs are permitted by the Comprehensive Zoning Ordinance, Development Plans, building code, floodplain management regulations, special management area requirements under HRS Chapter 205A and any other applicable rule or law.

☐

Letter from the Department of Public Works stating that the proposed project does **NOT** constitute "Substantial Improvement," pursuant to §8-27.2 (If applicable, will require valuation of project).

### Exemption Determination (to be completed by Planning Department)

☐

Pursuant to §8-27.3 the Kaua'i County Code, 1987 as amended, the Planning Department hereby certifies the proposed structure(s) or subdivision(s) as exempt from those shoreline setback determination requirements established under §8-27.8.

☐

Pursuant to §8-27.7 the Kaua'i County Code, 1987 as amended, the proposed structure(s) is permitted within the shoreline setback area. While exempt from those shoreline setback determination requirements established under §8-27.8, the proposed structure(s) is subject to the conditions of §8-27.7(b). (See pg. 8)

\_\_\_\_\_  
Planning Director or designee

\_\_\_\_\_  
Date

☐

**Additional comments/conditions:**



## PLANNING DEPARTMENT SHORELINE SETBACK DETERMINATION

### **Part C**

#### **Shoreline Setback Determination (§8-27.8)**

*(This document is the request for a shoreline setback structure or subdivision determination form.)*

Please complete this section if you are proposing a structure or subdivision that is *not* exempt (pursuant to Part B) and requires a certified shoreline. Determination of applicability (**Part A**) from the Planning Director shall first be obtained.

Certified Shoreline	
Select the appropriate option:	
<input type="checkbox"/>	Certified Shoreline
<input type="checkbox"/>	Survey Map (showing Certified Shoreline, Shoreline Setback, and Structure(s) OR Subdivision)
<input type="checkbox"/>	Average Lot Depth: _____ ft.
<input type="checkbox"/>	Setback (Table 1 or Table 2): _____ ft.
<input type="checkbox"/>	Affidavit: Statement of inability to certify shoreline, pursuant to §8-27.3(d)
_____	_____
Planning Director or its designee	Date

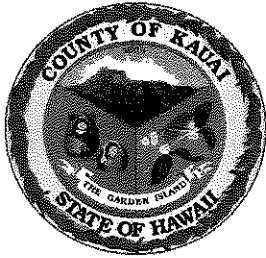
Public Projects less than \$125,000	
<input type="checkbox"/>	Public Projects less than \$125,000 Declaration ((§8-27.8(c)(2))
_____	_____
Planning Director or designee	Date
<input type="checkbox"/>	Certified Shoreline Required
<input type="checkbox"/>	Certified Shoreline Not Required

Describe proposed structure(s), including but not limited to the landscaping plan (please attach):

--

Explain how the proposed structure is in compliance with §8-27.8(c)(2) (attach additional information if necessary):

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## PLANNING DEPARTMENT SHORELINE SETBACK VARIANCE

### **Part D**

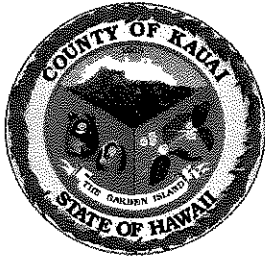
#### **Shoreline Setback Variance (§8-27.9)**

This part is the request for a shoreline setback variance. In addition to the documentation and information requested in Parts A, B, and C, the Applicant applying for a variance is required to submit all required information, per §8-27.9 listed in the checklist below.

- ☐ A non-refundable administrative fee of three hundred dollars (\$300.00).
- ☐ Certification from the owner or lessee of the lot which authorizes the application for variance;
- ☐ An environmental assessment and or EIS, if required, prepared in accordance with HRS Chapter 343, and the environmental impact statement rules and applicable guidelines of the State of Hawai'i;
- ☐ The names, addresses, and the tax map key identification of owners of real property situated adjacent to and abutting the boundaries of the land on which the proposed structure or subdivision and/or landscaping is to be located; or operation is to occur (attach information);
- ☐ A site plan of the shoreline setback area, drawn to scale, showing:
  - ☐ Existing natural and man-made features and conditions within;
  - ☐ Existing natural and man-made features and conditions along properties immediately adjacent to the shoreline setback area and proposed improvements;
  - ☐ The certified shoreline and the shoreline setback line (submitted under **Part B**);
  - ☐ Contours at a minimum interval of two (2) feet unless waived by the Director; and
  - ☐ Proposed development and improvements showing new conditions with a typical section (if a structure).
- ☐ A copy of the certified shoreline survey map of the property (submitted under **Part B**);
- ☐ Detailed justification of the proposed project, which addresses the purpose and intent of these rules and the criteria for approval of a variance (attach written statement);
- ☐ Analysis and report of coastal erosion rates and coastal processes; and
- ☐ Any other information required by the Director (listed below).

Any structure approved within the shoreline setback area by variance shall not be eligible for protection by shoreline hardening during the life of the structure, and this limitation and the fact that the structure does not meet setback requirements under §8-27.3 and could be subject to coastal erosion and high wave action shall be written into a unilateral agreement that is recorded by the Bureau of Conveyances of Land Court, as the case may be. A copy of the unilateral agreement shall be submitted to the Planning Department prior to the issuance of the required zoning and/or shoreline setback variance. Failure of the grantor to record these deed restrictions shall constitute a violation and the grantor shall be subject to the penalties set forth in this Article 3.

For any structure approved within the shoreline setback area by variance, the Applicant shall agree in writing that the Applicant, its successors and permitted assigns shall defend, indemnify and hold the County of Kaua'i harmless from and against any and all loss, liability claim, or demand arising out of damages to said structure and this indemnification shall be included in the unilateral agreement required above.



## PLANNING DEPARTMENT SHORELINE SETBACK INFORMATION

Table 1. (This table is included for illustrative purposes only.)

Lots Included in the Kaua'i Coastal Erosion Study. The distance in feet of the shoreline setback line as measured from the certified shoreline based on the average lot depth in feet.

### **LOTS INCLUDED IN KAUA'I COASTAL EROSION STUDY**

Average Lot Depth	Setback Line
Less than 140 feet (<140 feet)	40 feet plus (70 X annual coastal erosion rate) plus 20 feet
140 feet to 220 feet (140-220 feet)	<p style="text-align: center;"><u>Greater of:</u></p> <p>40 feet plus (70 X annual coastal erosion rate) plus 20 feet</p> <p style="text-align: center;"><u>-or-</u></p> <p>(Average Lot Depth minus 100 feet) ÷ by 2 plus 40</p>
Greater than 220 feet (>220 feet)	<p style="text-align: center;"><u>Greater of:</u></p> <p>40 feet plus (70 X annual coastal erosion rate) plus 20 feet</p> <p style="text-align: center;"><u>-or-</u></p> <p>100 feet from the certified shoreline</p>

View erosion rate maps from the County website at  
<http://www.soest.hawaii.edu/coasts/kauaicounty/KCounty.html>

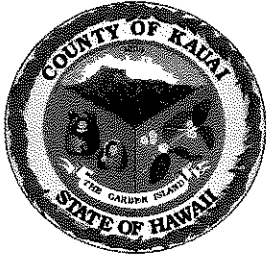
Table 2. (This table is included for illustrative purposes only.)

Lots Not Included in the Kaua'i Coastal Erosion Study.

### **LOTS NOT INCLUDED IN KAUA'I COASTAL EROSION STUDY**

Setback Calculation	
(Average Lot Depth – 100/2+40) Subject to the Following:	
1	For lots with naturally <i>occurring rocky shorelines</i> , the shoreline setback line shall be <b><u>no less than 40 feet.</u></b>
2	For all other lots, the shoreline setback line shall be <b><u>no less than 60 feet.</u></b>
3	For all lots, the <b><u>maximum</u></b> setback that can be required <b><u>shall be 100 feet.</u></b>

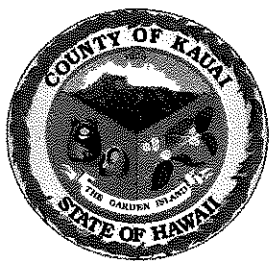
**Non-Abutting Lots.** If an Applicant is unable to secure permission from the abutting landowner to complete a certified shoreline for a non-abutting lot within approximately five hundred fifty (550) feet of the shoreline, the Planning Director may, pursuant to §8-4.3, impose conditions to zoning permits to increase setbacks where evidence exists that a proposed structure may be affected by coastal hazards or erosion.



## PLANNING DEPARTMENT SHORELINE SETBACK INFORMATION

Table 3. This table is presented for **Exemption 3** (§8-27.7).

Permitted Structures within the shoreline setback area	
(a)	The following structures are permitted in the shoreline setback area. All structures and/or landscaping not specifically permitted in the section are prohibited without a variance.
(1)	Existing conforming and nonconforming structures/activities
(2)	Structure or activity that received a shoreline variance or administrative approval prior to February 26, 2008.
(3)	A structure or activity that is necessary for, or ancillary to, continuation of agriculture or aquaculture existing on the shoreline setback area on June 16, 1989.
(4)	"Temporary structures" as defined in Section 8-27.2. To ensure that there will be no irreversible or long-term adverse effects, the Director shall require as a condition of a permit the restoration of the site to its original condition or better, and the Director may require a bond to ensure such restoration.
(5)	A structure that consists of maintenance, repair, reconstruction, and minor additions or alterations of legal boating, maritime, or water sports recreational facilities, which are publicly owned, and which result in no interference with natural beach processes; provided that permitted structures may be repaired, but shall not be enlarged within the shoreline setback area without a variance.
(6)	Repairs to a lawfully existing structure, including nonconforming structures, provided that: <ul style="list-style-type: none"> <li>(A) The repairs do not enlarge, add to or expand the structure; increase the size or degree of non-conformity; or intensify the use of the structure or its impact on coastal processes;</li> <li>(B) The repairs do not constitute a substantial improvement of the structure; and</li> <li>(C) The repairs are permitted by the Comprehensive Zoning Ordinance, Development Plans, building code, floodplain management regulations, special management area requirements under HRS Chapter 205A and any other applicable rule or law.</li> </ul>
(7)	Beach nourishment or dune restoration projects approved by all applicable governmental agencies.
(8)	A structure approved by the Director as a minor structure.
(9)	Qualified demolition of existing structures.
(10)	Unmanned civil defense facilities installed for the primary purposes of: (i) warning the public of emergencies and disasters; or (ii) measuring and/or monitoring geological, meteorological and other events.
(11)	Scientific studies and surveys, including archaeological surveys.
(12)	Structures built by a governmental agency to address an emergency as declared by the Governor of the State of Hawai'i, the Mayor of the County of Kaua'i or any other public official authorized by the law to declare an emergency.
(13)	Structures relating to film productions that have received a County Revocable Film Permit. Structures undertaken for film productions must be removed within thirty (30) days following the completion of the film production.
(14)	Structures required for remedial and removal actions undertaken pursuant to Chapter 128D of the Hawai'i Revised Statutes.



## PLANNING DEPARTMENT SHORELINE SETBACK INFORMATION

(b)	The following conditions shall apply to any new structure permitted in the shoreline setback area:
(1)	All new structures shall be constructed in accordance with the standards for development in Chapter 15, Article 1, Flood Plain Management, Kaua'i County Code 1987, as amended, relating to coastal high hazard districts and FEMA guidelines regarding construction in areas mapped on Flood Insurance Rate Maps as flood hazard areas.
(2)	The applicant shall agree in writing that the applicant, its successors, and permitted assigns shall defend, indemnify, and hold the County of Kaua'i harmless from and against any and all loss, liability, claim or demand arising out of damages to said structures from any coastal natural hazard and coastal erosion.
(3)	The applicant shall agree in writing for itself, its successors and assigns that the construction of any erosion-control or shoreline hardening structure and/or landscaping shall not be allowed to protect the permitted structure during its life, with the exception of approved beach or dune nourishment fill activities, and landscape planting and irrigation located more than forty feet (40') from the shoreline.
(4)	Unless otherwise provided, all new structures and/or landscaping shall not: <ul style="list-style-type: none"> <li>(A) adversely affect beach processes,</li> <li>(B) artificially fix the shoreline,</li> <li>(C) interfere with public access or public views to and along the shoreline,</li> <li>(D) impede the natural processes and/or movement of the shoreline and/or sand dunes, or</li> <li>(E) alter the grade of the shoreline setback area.</li> </ul>
(5)	All new structures shall be consistent with the purposes of this article and HRS Chapter 205A, as amended, and shall be designed and located to minimize the alteration of natural landforms and existing public views to and along the shoreline.
(6)	The requirements of this Subsection (b) shall run with the land and shall be set forth in a unilateral agreement recorded by the applicant with the Bureau of Conveyances or the Land Court, whichever is applicable, no later than thirty (30) days after the date of final shoreline approval of the structure under Section 8-27.8. A copy of the recorded unilateral agreement shall be filed with the Director and the County Engineer no later than forty-five (45) days after the date of the final shoreline determination and approval of the structure and the filing of such with the Director shall be a prerequisite to the issuance of any related building permit.



## RIGHT-OF-ENTRY

THIS INDENTURE made this 28 day of November, 2016 by and between  
**NO KA OI WEST LLC**, a Hawai'i limited liability company, whose mailing address is  
Post Office Box 879, Hanapēpē, Kaua'i, Hawai'i 96719 (hereinafter, the "GRANTOR"), and the  
**BOARD OF WATER SUPPLY**, County of Kaua'i, whose mailing address is  
4398 Pua Loke Street, Lihu'e, Kaua'i, Hawai'i 96766 (hereinafter, the "BOARD");

### WITNESSETH:

For and in consideration of the sum of One Dollar (\$1.00) to the Grantor paid, the receipt  
whereof is hereby acknowledged, the Grantor does hereby grant to the Board, its officers,  
employees, contractors, subcontractors, and agents (hereinafter collectively the "Grantee"), a  
temporary construction Right-of-Entry subject to the following terms and conditions:

1. The Right-of-Entry shall be an area over, under, and across that certain property  
situated, lying, and being at 'Ele'ele, Kaua'i, Hawai'i at Tax Map Key No. (4) 2-1-02:001 and as  
described in the map attached hereto as Exhibit "A" and made a part hereof.
2. The Right-of-Entry shall be used by the Grantee for purpose of installing a new  
water main and any necessary appurtenances for Job No.15-07 – Reorganize Water System –  
Pipeline Connecting Hanapēpē and 'Ele'ele (Water Plan 2020 Project No. HE-1).
3. The Grantee shall indemnify and hold harmless the Grantor from and against any  
claims for injuries or damages of any kind occasioned, in whole or in part, by Grantee's  
negligent actions or omissions arising out of its exercise of this Right-of-Entry.
4. This Right-of-Entry shall be binding upon and inure to the benefit of the parties  
and their respective successors and assigns.

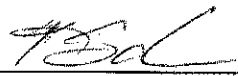
5. The Grantor warrants and covenants with the Board that Grantor is the fee simple owner of the property upon which the right-of-entry is located, has full right to convey said Right-of-Entry and will warrant and defend the Right-of-Entry granted herein against all adverse claims.

6. This Right-of-Entry may be executed in counterparts. Each counterpart shall be executed by one or more parties hereinbefore named and the several counterparts shall constitute one instrument to the same effect as though the signatures of all the parties are upon the same document.

7. The term of this Right-of-Entry shall commence upon the execution of the same by Grantor and shall automatically expire, without the submission or presentation of any documents to that effect, at such time that the Grantor executes (a) a Grant of Easement with respect to that portion of Tax Map Key Nos. (4) 2-1-02:001 which the Board deems necessary for the purposes designated and described in paragraph (2) above and (b) a Conveyance of Water Facilities for those improvements and facilities deemed necessary by the Board.

APPROVED:

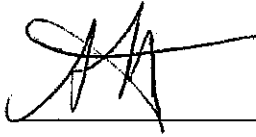
APPROVED AS TO FORM  
AND LEGALITY:

  
\_\_\_\_\_  
Manager and Chief Engineer

  
\_\_\_\_\_  
Deputy County Attorney

**OWNER:**

*No Ka Oi West, LLC*  
*a Hawaii limited liability company*



By: Abigail Santos

Its: Registered Agent

STATE OF HAWAII       )  
                                  ) ss  
COUNTY OF KAUAI    )

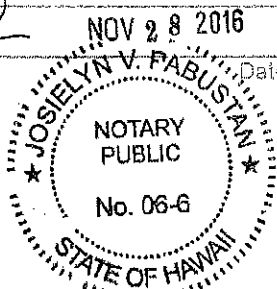
On this \_\_\_\_\_ day of NOV 28 2016, before me appeared  
Abigail Santos to me known, who, being by me duly sworn, did  
say that she is the Registered Agent of No Ka Oi West, LLC  
a Hawaii limited liability company and that said instrument was signed on  
behalf of said company and she acknowledged said instrument to be the free act and deed  
of said Hawaii limited liability company.

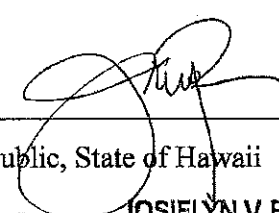
Doc. Date: NOV 28 2016 # Pages 4

Notary Name: Joselyn V. Pabustan Fifth Circuit

Doc. Description Right of Entry

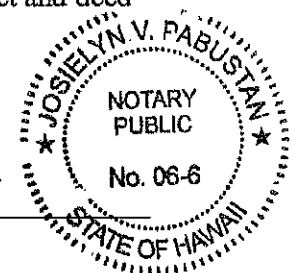
Notary Signature  Date NOV 28 2016



  
Notary Public, State of Hawaii

Name of Notary: JOSIELYN V. PABUSTAN

My Commission expires: 1-1-2018



**GRANTOR**

BOARD OF WATER SUPPLY,  
COUNTY OF KAUAI

*Memo Seal*  
By: Sherman Shiraishi  
Its: Chairperson

STATE OF HAWAII )  
 )ss.  
COUNTY OF KAUAI )

On this 24<sup>th</sup> day of February, 2018<sup>7mo</sup>, before me appeared  
Sherman Shiraishi to me personally known, who being by me was duly  
sworn, and said Officer is the chairperson of the BOARD OF WATER  
SUPPLY, COUNTY OF KAUAI, and that the foregoing instrument was signed on behalf of said  
Board with authority of said Board, and that said officer acknowledged the instrument to be the free  
act and deed of said Board, and that said Board has no corporate seal.

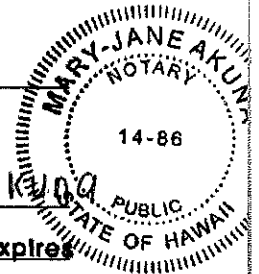
Doc Date: Nov. 28-16 # Pages: 5  
Notary Name: Mary-Jane Akuna Fifth Circuit  
County of Kauai

Doc Description: ROE for  
TRK (412-1-002:001  
NO KA OI  
Job 15-07 HE-1  
Mary-Jane Akuna 2/24/18  
Mary-Jane Akuna Date



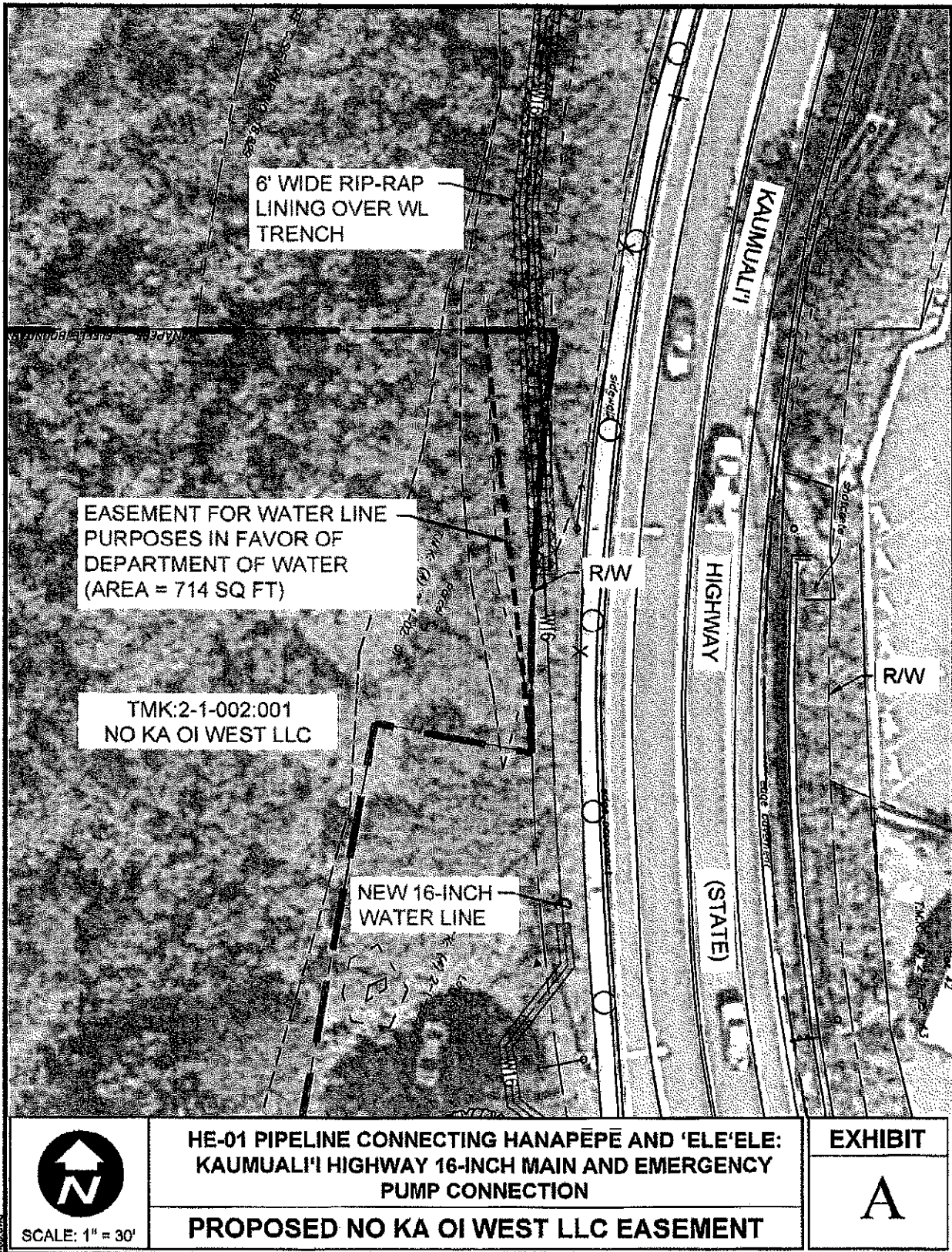
Mary-Jane Akuna  
Notary Public, State of Hawaii

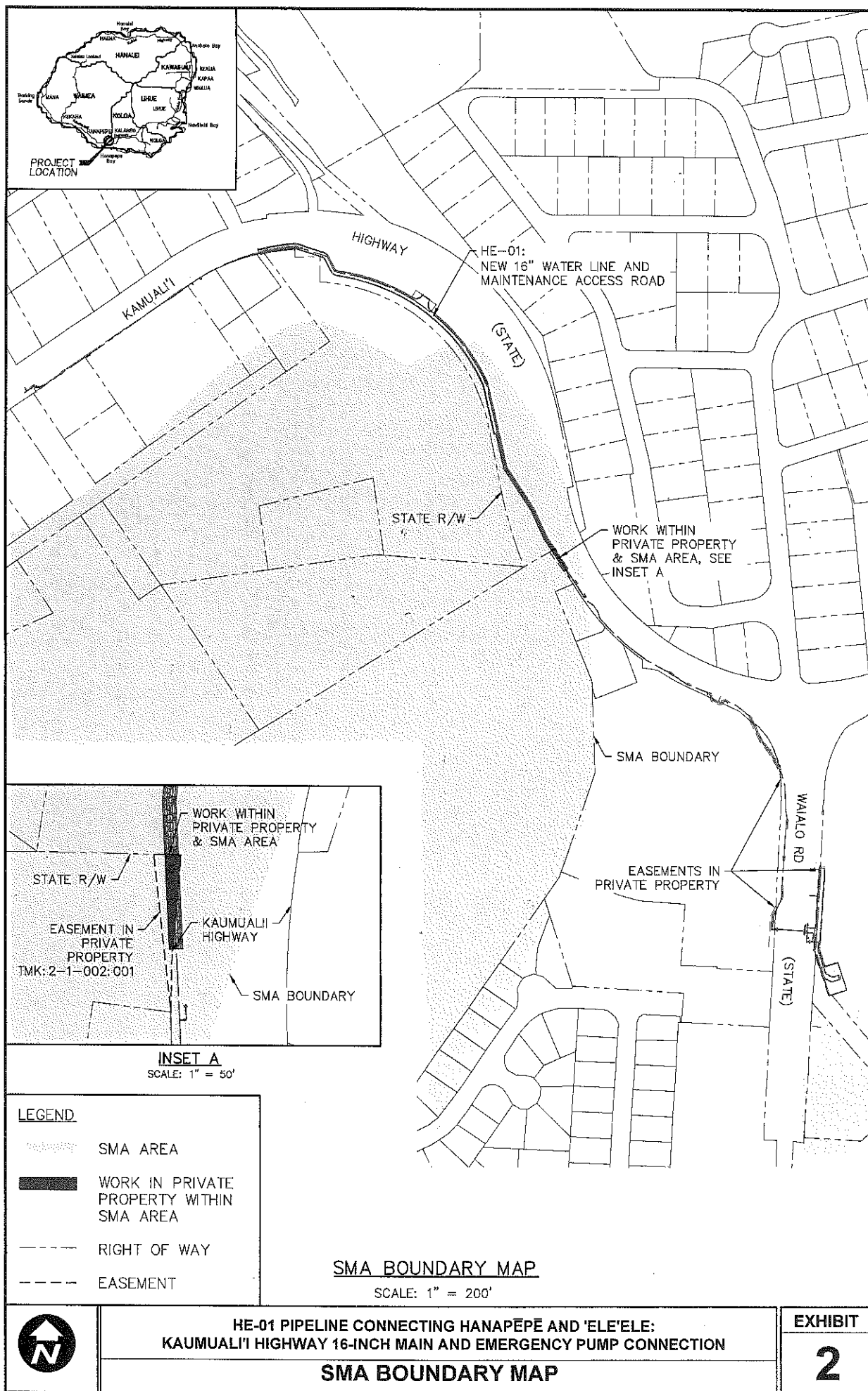
Name of Notary: Mary-Jane Akuna  
My Commission expires My Commission Expires  
03-30-2018

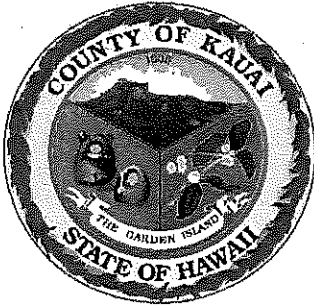


GRANTEE

FILE: S:\CKDO\1501-Hanapepe WL\300 DSGN\370 Easements\CKDO\1501 No Ka Oi Easement Map.dwg







## PLANNING DEPARTMENT SHORELINE SETBACK APPLICATION

FOR OFFICIAL USE ONLY:	
SSD 201 <u>8</u> - <u>29</u>	
Acceptance Date:	<u>1-16-18</u>
Website Posting Date:	
Determination Date:	
Planning Commission Date:	
Expiration Date:	
Planner Assigned:	

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Applicant Information	
Applicant:	<u>MATT HAMAI</u>
Mailing Address:	<u>P.O. BOX 616</u> <u>HAWAII</u>
Phone:	<u>212-3681</u>
Email:	
Applicant's Status: (Check one)	
<input type="checkbox"/> Owner of the Property	(Holder of at least 75% of the equitable and legal title)
<input type="checkbox"/> Lessee of the Property	Lessee must have an <b>unexpired and recorded</b> lease of five (5) years or more from the date of filing of this application. If not, Owner(s) must provide a Letter of Authorization.
<input checked="" type="checkbox"/> Authorized Agent	Attach Letter of Authorization
Transmittal Date: _____	

Project Information (attach additional sheets, if necessary)	
County Zoning District:	Tax Map Key(s): <u>(4) 5-4-12-11-30</u>
	Land Area: _____
Nature of Development: (Description of proposed structure or subdivision)	<u>REST AREA</u>

**NO PERMITS WILL BE ISSUED WITHOUT PLANNING COMMISSION ACCEPTANCE,  
EXCEPT AS PROVIDED IN §8-27.8(c)(8)**

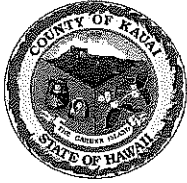
### Part A

#### Shoreline Setback Determination of Applicability (§8-27.1)

Check all that apply, fill in applicable information. Any box checked must be accompanied by additional information, photos and/or documentation.

- Property is Abutting the Shoreline  
☒ Proposed project's approximate distance from shoreline (based on aerial map): 180 ft.
- Property is Not Abutting the Shoreline  
☐ Proposed project's approximate distance from shoreline (based on aerial map): \_\_\_\_\_ ft.
- Additional Information:  
☐ Shoreline Change (Erosion/Accretion) Rate: \_\_\_\_\_ ft./year  
(Information available here: [www.soest.hawaii.edu/coasts/kauaicounty/KCounty.html](http://www.soest.hawaii.edu/coasts/kauaicounty/KCounty.html))  
☐ Number and description of parcels (including roads, buildings, structures) between Shoreline and this parcel:

--



## PLANNING DEPARTMENT SHORELINE SETBACK APPLICATION

- ☐ Topography (undulating, flat, slope, etc.) and ground elevation of subject parcel (Lowest and Highest elevations)

SLOPE

- ☐ Shoreline type (e.g. beach, dune, rocky, sandy with rocky outcropping, etc.)

ROCKY SANDY

- ☐ Artificially armored Shoreline

☐ If checked, what type of armoring (e.g. seawall, revetment, bulkhead): \_\_\_\_\_

☐ Is the armoring permitted/authorized? \_\_\_\_\_

☐ Date of authorization (attach copy of authorization letter): \_\_\_\_\_

- ☐ Is property in coastal floodplain (if checked, what zone)? \_\_\_\_\_

- ☐ Has this property been subject to coastal hazards (i.e. flooding, erosion, tsunami, etc.) in the past?

### PLEASE NOTE:

Any misrepresentation of information in this shoreline setback application will result in revocation of this determination and may result in fines and criminal prosecution.

Applicant's Signature

Signature

Date

1-10-18

### Applicability (to be completed by Planning Department)

- ☒ **Setback Determination necessary.** Requirements of Ordinance No. 979 are applicable.

- ☐ **Setback Determination is NOT necessary.** Requirements of Ordinance No. 979 are not applicable.

Planning Director or designee

Date

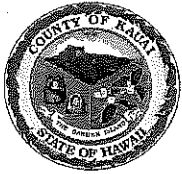
1-16-18

If **Part A** has been deemed that a Determination will be necessary, the additional information will be required for submission of this application.

### Part B

- ☐ A non-refundable processing fee of **one hundred dollars (\$100.00)** shall accompany a request for determination. (§8-27.8(e))
- ☐ An aerial map/image (ex. Google Maps or Google Earth) with a line drawn from the shoreline/vegetation line (approximate shoreline) to the proposed project and the calculated distance in feet.
- ☐ A detailed Plot Plan **to scale** with all existing and proposed structures including driveways, visible lot coverage, setbacks and measurement details, fences, gates, and walls, etc.
- ☐ Building Permit Number (If building plans submitted)





## PLANNING DEPARTMENT SHORELINE SETBACK DETERMINATION

### Exemption Determination



#### Exemption 1

In cases where the proposed structure or subdivision satisfies the following four criteria:

(A) In cases where the proposed structure or subdivision is located outside of the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM) 'V' or 'VE' flood zones;

(B) The proposed structure or subdivision is located at an elevation which is thirty (30) feet above sea level or greater;

(C) The applicant can demonstrate to the satisfaction of the Planning Director that the property is clearly adjacent to a rocky shoreline and that it will not affect or be affected by coastal erosion or hazards; and

(D) The shoreline setback shall be sixty (60) feet from the certified shoreline which has been established not more than twelve (12) months from the date of the application for the exception under this section.



#### Exemption 2

In cases where the applicant can demonstrate to the satisfaction of the Planning Director that the applicant's proposed structure or subdivision will not affect beach processes, impact public beach access, or be affected by or contribute to coastal erosion or hazards, excluding natural disasters. Factors to be considered shall include, but not be limited to, proximity to the shoreline, topography, properties between shoreline and applicant's property, elevation, and the history of coastal hazards in the area.



#### Exemption 3

Pursuant to §8-27.7, those structures and uses found exempt in Table 3 (see pg. 7) including repairs and renovations to a lawfully existing structure, including nonconforming structures, provided that:

(A) The repairs DO NOT enlarge, add to or expand the structure; increase the size or degree of non-conformity; or intensify the use of the structure or its impact on coastal processes;

(B) The repairs DO NOT constitute a substantial improvement of the structure; and

(C) The repairs are permitted by the Comprehensive Zoning Ordinance, Development Plans, building code, floodplain management regulations, special management area requirements under HRS Chapter 205A and any other applicable rule or law.

☒ Letter from the Department of Public Works stating that the proposed project does **NOT** constitute "Substantial Improvement," pursuant to §8-27.2 (If applicable, will require valuation of project).

### Exemption Determination (to be completed by Planning Department)



Pursuant to §8-27.3 the Kaua'i County Code, 1987 as amended, the Planning Department hereby certifies the proposed structure(s) or subdivision(s) as exempt from those shoreline setback determination requirements established under §8-27.8.



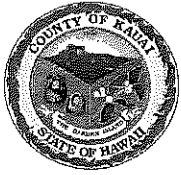
Pursuant to §8-27.7 the Kaua'i County Code, 1987 as amended, the proposed structure(s) is permitted within the shoreline setback area. While exempt from those shoreline setback determination requirements established under §8-27.8, the proposed structure(s) is subject to the conditions of §8-27.7(b). (See pg. 8)

\_\_\_\_\_  
Planning Director or designee

\_\_\_\_\_  
Date



Additional comments/conditions:



## PLANNING DEPARTMENT SHORELINE SETBACK DETERMINATION

### Part C

#### **Shoreline Setback Determination (§8-27.8)**

*(This document is the request for a shoreline setback structure or subdivision determination form.)*

Please complete this section if you are proposing a structure or subdivision that is *not* exempt (pursuant to Part B) and requires a certified shoreline. Determination of applicability (**Part A**) from the Planning Director shall first be obtained.

Certified Shoreline	
Select the appropriate option:	
<input type="checkbox"/> Certified Shoreline	
<input type="checkbox"/> Survey Map (showing Certified Shoreline, Shoreline Setback, and Structure(s) OR Subdivision)	
<input type="checkbox"/> Average Lot Depth: _____ ft.	
<input type="checkbox"/> Setback (Table 1 or Table 2): _____ ft.	
<input type="checkbox"/> Affidavit: Statement of inability to certify shoreline, pursuant to §8-27.3(d)	
_____ Planning Director or its designee	_____ Date

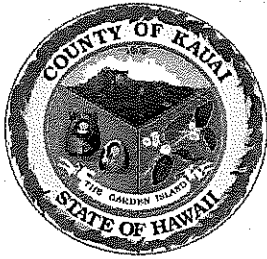
Public Projects less than \$125,000	
<input type="checkbox"/> Public Projects less than \$125,000 Declaration ((§8-27.8(c)(2))	
_____ Planning Director or designee	_____ Date
<input type="checkbox"/> Certified Shoreline Required	
<input type="checkbox"/> Certified Shoreline Not Required	

Describe proposed structure(s), including but not limited to the landscaping plan (please attach):

--

Explain how the proposed structure is in compliance with §8-27.8(c)(2) (attach additional information if necessary):

--



## PLANNING DEPARTMENT SHORELINE SETBACK VARIANCE

### Part D

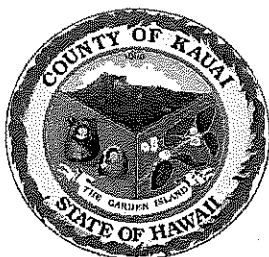
#### **Shoreline Setback Variance (§8-27.9)**

This part is the request for a shoreline setback variance. In addition to the documentation and information requested in Parts A, B, and C, the Applicant applying for a variance is required to submit all required information, per §8-27.9 listed in the checklist below.

- ☐ A non-refundable administrative fee of three hundred dollars (\$300.00).
- ☐ Certification from the owner or lessee of the lot which authorizes the application for variance;
- ☐ An environmental assessment and or EIS, if required, prepared in accordance with HRS Chapter 343, and the environmental impact statement rules and applicable guidelines of the State of Hawai'i;
- ☐ The names, addresses, and the tax map key identification of owners of real property situated adjacent to and abutting the boundaries of the land on which the proposed structure or subdivision and/or landscaping is to be located; or operation is to occur (attach information);
- ☐ A site plan of the shoreline setback area, drawn to scale, showing:
  - ☐ Existing natural and man-made features and conditions within;
  - ☐ Existing natural and man-made features and conditions along properties immediately adjacent to the shoreline setback area and proposed improvements;
  - ☐ The certified shoreline and the shoreline setback line (submitted under **Part B**);
  - ☐ Contours at a minimum interval of two (2) feet unless waived by the Director; and
  - ☐ Proposed development and improvements showing new conditions with a typical section (if a structure).
- ☐ A copy of the certified shoreline survey map of the property (submitted under **Part B**);
- ☐ Detailed justification of the proposed project, which addresses the purpose and intent of these rules and the criteria for approval of a variance (attach written statement);
- ☐ Analysis and report of coastal erosion rates and coastal processes; and
- ☐ Any other information required by the Director (listed below).

Any structure approved within the shoreline setback area by variance shall not be eligible for protection by shoreline hardening during the life of the structure, and this limitation and the fact that the structure does not meet setback requirements under §8-27.3 and could be subject to coastal erosion and high wave action shall be written into a unilateral agreement that is recorded by the Bureau of Conveyances of Land Court, as the case may be. A copy of the unilateral agreement shall be submitted to the Planning Department prior to the issuance of the required zoning and/or shoreline setback variance. Failure of the grantor to record these deed restrictions shall constitute a violation and the grantor shall be subject to the penalties set forth in this Article 3.

For any structure approved within the shoreline setback area by variance, the Applicant shall agree in writing that the Applicant, its successors and permitted assigns shall defend, indemnify and hold the County of Kaua'i harmless from and against any and all loss, liability claim, or demand arising out of damages to said structure and this indemnification shall be included in the unilateral agreement required above.



## PLANNING DEPARTMENT SHORELINE SETBACK INFORMATION

Table 1. (This table is included for illustrative purposes only.)

Lots Included in the Kaua'i Coastal Erosion Study. The distance in feet of the shoreline setback line as measured from the certified shoreline based on the average lot depth in feet.

### LOTS INCLUDED IN KAUA'I COASTAL EROSION STUDY

Average Lot Depth	Setback Line
Less than 140 feet (<140 feet)	40 feet plus (70 X annual coastal erosion rate) plus 20 feet
140 feet to 220 feet (140-220 feet)	Greater of: 40 feet plus (70 X annual coastal erosion rate) plus 20 feet -or- (Average Lot Depth minus 100 feet) ÷ by 2 plus 40
Greater than 220 feet (>220 feet)	Greater of: 40 feet plus (70 X annual coastal erosion rate) plus 20 feet -or- 100 feet from the certified shoreline

View erosion rate maps from the County website at  
<http://www.soest.hawaii.edu/coasts/kauaicounty/KCounty.html>

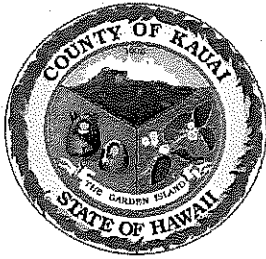
Table 2. (This table is included for illustrative purposes only.)

Lots Not Included in the Kaua'i Coastal Erosion Study.

### LOTS NOT INCLUDED IN KAUA'I COASTAL EROSION STUDY

Setback Calculation	
(Average Lot Depth – 100/2+40) Subject to the Following:	
1	For lots with naturally occurring rocky shorelines, the shoreline setback line shall be <b><u>no less than 40 feet.</u></b>
2	For all other lots, the shoreline setback line shall be <b><u>no less than 60 feet.</u></b>
3	For all lots, the <b><u>maximum</u></b> setback that can be required <b><u>shall be 100 feet.</u></b>

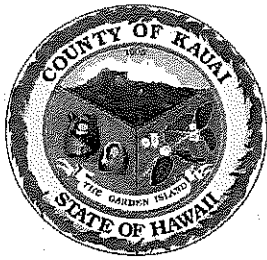
Non-Abutting Lots. If an Applicant is unable to secure permission from the abutting landowner to complete a certified shoreline for a non-abutting lot within approximately five hundred fifty (550) feet of the shoreline, the Planning Director may, pursuant to §8-4.3, impose conditions to zoning permits to increase setbacks where evidence exists that a proposed structure may be affected by coastal hazards or erosion.



## PLANNING DEPARTMENT SHORELINE SETBACK INFORMATION

Table 3. This table is presented for **Exemption 3** (§8-27.7).

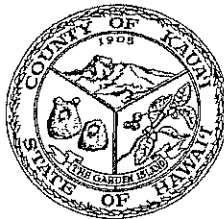
<b>Permitted Structures within the shoreline setback area</b>	
(a)	The following structures are permitted in the shoreline setback area. All structures and/or landscaping not specifically permitted in the section are prohibited without a variance.
(1)	Existing conforming and nonconforming structures/activities
(2)	Structure or activity that received a shoreline variance or administrative approval prior to February 26, 2008.
(3)	A structure or activity that is necessary for, or ancillary to, continuation of agriculture or aquaculture existing on the shoreline setback area on June 16, 1989.
(4)	"Temporary structures" as defined in Section 8-27.2. To ensure that there will be no irreversible or long-term adverse effects, the Director shall require as a condition of a permit the restoration of the site to its original condition or better, and the Director may require a bond to ensure such restoration.
(5)	A structure that consists of maintenance, repair, reconstruction, and minor additions or alterations of legal boating, maritime, or water sports recreational facilities, which are publicly owned, and which result in no interference with natural beach processes; provided that permitted structures may be repaired, but shall not be enlarged within the shoreline setback area without a variance.
(6)	Repairs to a lawfully existing structure, including nonconforming structures, provided that: <ul style="list-style-type: none"> <li>(A) The repairs do not enlarge, add to or expand the structure; increase the size or degree of non-conformity; or intensify the use of the structure or its impact on coastal processes;</li> <li>(B) The repairs do not constitute a substantial improvement of the structure; and</li> <li>(C) The repairs are permitted by the Comprehensive Zoning Ordinance, Development Plans, building code, floodplain management regulations, special management area requirements under HRS Chapter 205A and any other applicable rule or law.</li> </ul>
(7)	Beach nourishment or dune restoration projects approved by all applicable governmental agencies.
(8)	A structure approved by the Director as a minor structure.
(9)	Qualified demolition of existing structures.
(10)	Unmanned civil defense facilities installed for the primary purposes of: (i) warning the public of emergencies and disasters; or (ii) measuring and/or monitoring geological, meteorological and other events.
(11)	Scientific studies and surveys, including archaeological surveys.
(12)	Structures built by a governmental agency to address an emergency as declared by the Governor of the State of Hawai'i, the Mayor of the County of Kaua'i or any other public official authorized by the law to declare an emergency.
(13)	Structures relating to film productions that have received a County Revocable Film Permit. Structures undertaken for film productions must be removed within thirty (30) days following the completion of the film production.
(14)	Structures required for remedial and removal actions undertaken pursuant to Chapter 128D of the Hawai'i Revised Statutes.



## PLANNING DEPARTMENT SHORELINE SETBACK INFORMATION

(b)	The following conditions shall apply to any new structure permitted in the shoreline setback area:
(1)	All new structures shall be constructed in accordance with the standards for development in Chapter 15, Article 1, Flood Plain Management, Kaua'i County Code 1987, as amended, relating to coastal high hazard districts and FEMA guidelines regarding construction in areas mapped on Flood Insurance Rate Maps as flood hazard areas.
(2)	The applicant shall agree in writing that the applicant, its successors, and permitted assigns shall defend, indemnify, and hold the County of Kaua'i harmless from and against any and all loss, liability, claim or demand arising out of damages to said structures from any coastal natural hazard and coastal erosion.
(3)	The applicant shall agree in writing for itself, its successors and assigns that the construction of any erosion-control or shoreline hardening structure and/or landscaping shall not be allowed to protect the permitted structure during its life, with the exception of approved beach or dune nourishment fill activities, and landscape planting and irrigation located more than forty feet (40') from the shoreline.
(4)	Unless otherwise provided, all new structures and/or landscaping shall not: <ul style="list-style-type: none"> <li>(A) adversely affect beach processes,</li> <li>(B) artificially fix the shoreline,</li> <li>(C) interfere with public access or public views to and along the shoreline,</li> <li>(D) impede the natural processes and/or movement of the shoreline and/or sand dunes, or</li> <li>(E) alter the grade of the shoreline setback area.</li> </ul>
(5)	All new structures shall be consistent with the purposes of this article and HRS Chapter 205A, as amended, and shall be designed and located to minimize the alteration of natural landforms and existing public views to and along to the shoreline.
(6)	The requirements of this Subsection (b) shall run with the land and shall be set forth in a unilateral agreement recorded by the applicant with the Bureau of Conveyances or the Land Court, whichever is applicable, no later than thirty (30) days after the date of final shoreline approval of the structure under Section 8-27.8. A copy of the recorded unilateral agreement shall be filed with the Director and the County Engineer no later than forty-five (45) days after the date of the final shoreline determination and approval of the structure and the filing of such with the Director shall be a prerequisite to the issuance of any related building permit.

**Bernard P. Carvalho Jr.**  
Mayor



**Lyle Tabata**  
Acting County Engineer

**COPY**

County of Kauai  
PLANNING DEPT.

**Wallace G. Rezentes Jr.**  
Managing Director

**DEPARTMENT OF PUBLIC WORKS 30 P4:14**

**County of Kauai, State of Hawaii**

4444 Rice Street, Suite 275, Lihue, Hawaii 96766

TEL (808) 241-4992 FAX (808) 241-6004

**RECEIVED**

November 30, 2017

Hamai Builders  
PO Box 616  
Hanalei, HI 96714  
Attn: Matt Hamai

Subject: SHORELINE SETBACK APPLICATION  
SUBSTANTIAL IMPROVEMENT DETERMINATION  
INTERIOR RENOVATIONS TO UNIT 302 – PU'U PO'A CONDOS BLDG 1  
TMK: (4) 5-4-012:011-0030. OWNER: DUANE GRUMMER

**PW 11.17.122**

Dear Mr. Hamai,

The Kauai County Shoreline Setback and Coastal Protection Ordinance (Ordinance No. 979) Section 8-27.2 defines substantial improvement as “any cumulative series of repairs, reconstruction, improvements, or additions to a structure over a ten (10) year period, where the cumulative cost equals or exceeds fifty percent (50%) of the market value of the structure before the start of construction of the first improvement during that ten (10) year period. For the purposes of this definition, substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.”

The Department of Public Works (DPW) Engineering Division has reviewed the proposed atrium roof replacement to Unit 302 in Building 1 of the Pu'u Po'a Condominiums. The structure contains 24 units. DPW has determined that the proposed improvements do not constitute a substantial improvement. A summary of the calculations follows.

#### ***Market Value***

There were seven (7) other building permits approved for the structure within the past ten years. There are also two building permits for work in Building 1 that are currently under review. The first permit was approved in 2008. Since the Replacement Cost New Less Depreciation (RCNLD) was not used for the assessment in the year 2008, the market value used in the calculations is the 2008 Assessed Building Value for the structure as determined by the County's Real Property Assessment Division. The 2008 Assessed Building Value was determined to be \$30,374,400. If the owner chooses to dispute this value, then an appraisal of the structure must be provided at the owner's expense. The appraisal shall be prepared by a professional appraiser



180 FT.



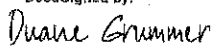
November 20, 2017

County of Kauai  
Building Department  
Lihue, HI

To Whom It May Concern:

Please accept this letter as notice that I, Duane Grummer, do hereby authorize either Matt Hamai or Steven Matin-Oldfield to sign and execute any and all documents pertaining to getting a building permit for my property at Puu Poa Unit #302 in Princeville, Hawaii.

Sincerely,

DocuSigned by:  
  
59F609388BCC43E...

Duane Grummer  
Owner

December 26, 2017

County of Kauai  
Planning Department  
444 Rice Street, Suite 473  
Lihue, HI 96766

**Subject:**    ***Shoreline Setback Application and Building Permit Application Lot 15 at Waipa,  
Hanalei, Kauai, Hawaii (5515 Weke Road)  
TMK # 5-5-05:3***

To Whom It May Concern:

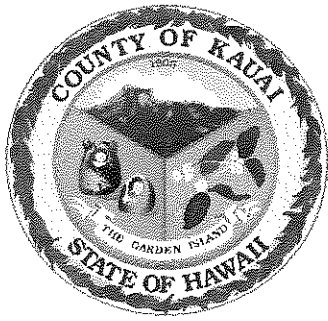
This is to inform you that the undersigned is the fee owner of the subject parcel of land and hereby authorizes Debbie Freeman to act as the authorized agent for matters concerning the above referenced action.

Sincerely,

  
property owner

Dec. 22/17  
date

Scott Morison  
3877 West 34th Avenue  
Vancouver, British Columbia V6N 2L2  
Canada



## PLANNING DEPARTMENT SHORELINE SETBACK APPLICATION

FOR OFFICIAL USE ONLY:	
SSD 201 <u>8</u> - <u>30</u>	
Acceptance Date:	<u>1-16-18</u>
Website Posting Date:	
Determination Date:	
Planning Commission Date:	
Expiration Date:	
Planner Assigned:	

**Instructions:** File all information requested under Part A for processing the Determination of Applicability (§8-27.1), including signature page. Fill out Parts A and B if you know that your parcel will require a Certified Shoreline Survey, due to the proximity to the shoreline. If you are proposing a permitted structure or subdivision within the shoreline setback area fill in Part C. For applications involving a variance, complete Part D.

Applicant Information	
Applicant:	<b>SCOTT MORISON C/O PERMIT SERVICES</b>
Mailing Address:	<u>305 KIHAPAI STREET</u> Phone: <u>808 346-7833</u>
	<u>KAPAA, 96746</u> Email: <u>permitservice@gmail.com</u>
Applicant's Status: (Check one)	
<input type="checkbox"/> Owner of the Property	(Holder of at least 75% of the equitable and legal title)
<input type="checkbox"/> Lessee of the Property	Lessee must have an <b>unexpired and recorded</b> lease of five (5) years or more from the date of filing of this application. If not, Owner(s) must provide a Letter of Authorization.
<input checked="" type="checkbox"/> Authorized Agent	Attach Letter of Authorization
Transmittal Date: _____	

Project Information (attach additional sheets, if necessary)	
County Zoning District:	<u>R-4</u> Tax Map Key(s): <u>455005003</u>
	Land Area: <u>9,656 SQ. FT.</u>
Nature of Development: (Description of proposed structure or subdivision)	<b>ONE SINGLE FAMILY RESIDENCE</b>

**NO PERMITS WILL BE ISSUED WITHOUT PLANNING COMMISSION ACCEPTANCE,  
EXCEPT AS PROVIDED IN §8-27.8(c)(8)**

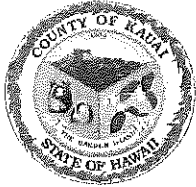
### Part A

#### Shoreline Setback Determination of Applicability (§8-27.1)

Check all that apply, fill in applicable information. Any box checked must be accompanied by additional information, photos and/or documentation.

- Property is Abutting the Shoreline  
☐ Proposed project's approximate distance from shoreline (based on aerial map): \_\_\_\_\_ ft.
- Property is Not Abutting the Shoreline  
☒ Proposed project's approximate distance from shoreline (based on aerial map): 386 ft.
- Additional Information:  
☒ Shoreline Change (Erosion/Accretion) Rate: Accretion 1.8 ft./year  
(Information available here: [www.soest.hawaii.edu/coasts/kauaicounty/KCounty.html](http://www.soest.hawaii.edu/coasts/kauaicounty/KCounty.html))  
☒ Number and description of parcels (including roads, buildings, structures) between Shoreline and this parcel:

**3 PARCELS: WEKE ROAD, Lot 11, WAIOLI PARK**



## PLANNING DEPARTMENT SHORELINE SETBACK APPLICATION

- ☒ Topography (undulating, flat, slope, etc.) and ground elevation of subject parcel (Lowest and Highest elevations)

FLAT, GROUND ELEVATION 13.0' - 14.5' MSL

- ☐ Shoreline type (e.g. beach, dune, rocky, sandy with rocky outcropping, etc.)

SANDY, FLAT

- ☐ Artificially armored Shoreline

☐ If checked, what type of armoring (e.g. seawall, revetment, bulkhead): \_\_\_\_\_

☐ Is the armoring permitted/authorized? \_\_\_\_\_

☐ Date of authorization (attach copy of authorization letter): \_\_\_\_\_

- ☐ Is property in coastal floodplain (if checked, what zone)? \_\_\_\_\_

- ☐ Has this property been subject to coastal hazards (i.e. flooding, erosion, tsunami, etc.) in the past?

### PLEASE NOTE:

Any misrepresentation of information in this shoreline setback application will result in revocation of this determination and may result in fines and criminal prosecution.

### Applicant's Signature

Debbie Leemon

Signature

1-16-18

Date

### Applicability (to be completed by Planning Department)

- ☒ **Setback Determination necessary.** Requirements of Ordinance No. 979 are applicable.

- ☐ **Setback Determination is NOT necessary.** Requirements of Ordinance No. 979 are not applicable.

[Signature]  
Planning Director or Designee

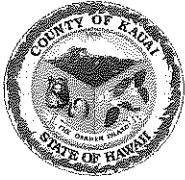
1-16-18

Date

If **Part A** has been deemed that a Determination will be necessary, the additional information will be required for submission of this application.

### Part B

- ☒ A non-refundable processing fee of **one hundred dollars (\$100.00)** shall accompany a request for determination. (§8-27.8(e))
- ☒ An aerial map/image (ex. Google Maps or Google Earth) with a line drawn from the shoreline/vegetation line (approximate shoreline) to the proposed project and the calculated distance in feet.
- ☒ A detailed Plot Plan **to scale** with all existing and proposed structures including driveways, visible lot coverage, setbacks and measurement details, fences, gates, and walls, etc.
- ☐ Building Permit Number (If building plans submitted)



## PLANNING DEPARTMENT SHORELINE SETBACK DETERMINATION

### Exemption Determination



#### Exemption 1

In cases where the proposed structure or subdivision satisfies the following four criteria:

(A) In cases where the proposed structure or subdivision is located outside of the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM) 'V' or 'VE' flood zones;

(B) The proposed structure or subdivision is located at an elevation which is thirty (30) feet above sea level or greater;

(C) The applicant can demonstrate to the satisfaction of the Planning Director that the property is clearly adjacent to a rocky shoreline and that it will not affect or be affected by coastal erosion or hazards; and

(D) The shoreline setback shall be sixty (60) feet from the certified shoreline which has been established not more than twelve (12) months from the date of the application for the exception under this section.



#### Exemption 2

In cases where the applicant can demonstrate to the satisfaction of the Planning Director that the applicant's proposed structure or subdivision will not affect beach processes, impact public beach access, or be affected by or contribute to coastal erosion or hazards, excluding natural disasters. Factors to be considered shall include, but not be limited to, proximity to the shoreline, topography, properties between shoreline and applicant's property, elevation, and the history of coastal hazards in the area.



#### Exemption 3

Pursuant to §8-27.7, those structures and uses found exempt in Table 3 (see pg. 7) including repairs and renovations to a lawfully existing structure, including nonconforming structures, provided that:

(A) The repairs DO NOT enlarge, add to or expand the structure; increase the size or degree of non-conformity; or intensify the use of the structure or its impact on coastal processes;

(B) The repairs DO NOT constitute a substantial improvement of the structure; and

(C) The repairs are permitted by the Comprehensive Zoning Ordinance, Development Plans, building code, floodplain management regulations, special management area requirements under HRS Chapter 205A and any other applicable rule or law.



Letter from the Department of Public Works stating that the proposed project does **NOT** constitute "Substantial Improvement," pursuant to §8-27.2 (If applicable, will require valuation of project).

### Exemption Determination (to be completed by Planning Department)



Pursuant to §8-27.3 the Kaua'i County Code, 1987 as amended, the Planning Department hereby certifies the proposed structure(s) or subdivision(s) as exempt from those shoreline setback determination requirements established under §8-27.8.



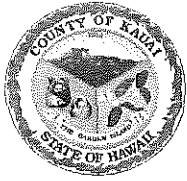
Pursuant to §8-27.7 the Kaua'i County Code, 1987 as amended, the proposed structure(s) is permitted within the shoreline setback area. While exempt from those shoreline setback determination requirements established under §8-27.8, the proposed structure(s) is subject to the conditions of §8-27.7(b). (See pg. 8)

\_\_\_\_\_  
Planning Director or designee

\_\_\_\_\_  
Date



**Additional comments/conditions:**



## PLANNING DEPARTMENT SHORELINE SETBACK DETERMINATION

### Part C

#### Shoreline Setback Determination (§8-27.8)

*(This document is the request for a shoreline setback structure or subdivision determination form.)*

Please complete this section if you are proposing a structure or subdivision that is *not* exempt (pursuant to Part B) and requires a certified shoreline. Determination of applicability (**Part A**) from the Planning Director shall first be obtained.

Certified Shoreline	
Select the appropriate option:	
<input type="checkbox"/>	Certified Shoreline
<input type="checkbox"/>	Survey Map (showing Certified Shoreline, Shoreline Setback, and Structure(s) OR Subdivision)
<input type="checkbox"/>	Average Lot Depth: _____ ft.
<input type="checkbox"/>	Setback (Table 1 or Table 2): _____ ft.
<input type="checkbox"/>	Affidavit: Statement of inability to certify shoreline, pursuant to §8-27.3(d)
_____	_____
Planning Director or its designee	Date

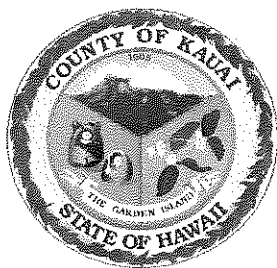
Public Projects less than \$125,000	
<input type="checkbox"/>	Public Projects less than \$125,000 Declaration ((§8-27.8(c)(2))
_____	_____
Planning Director or designee	Date
<input type="checkbox"/>	Certified Shoreline Required
<input type="checkbox"/>	Certified Shoreline Not Required

Describe proposed structure(s), including but not limited to the landscaping plan (please attach):

--

Explain how the proposed structure is in compliance with §8-27.8(c)(2) (attach additional information if necessary):

--



## PLANNING DEPARTMENT SHORELINE SETBACK VARIANCE

### Part D

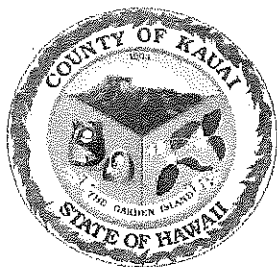
#### **Shoreline Setback Variance (§8-27.9)**

This part is the request for a shoreline setback variance. In addition to the documentation and information requested in Parts A, B, and C, the Applicant applying for a variance is required to submit all required information, per §8-27.9 listed in the checklist below.

- ☐ A non-refundable administrative fee of three hundred dollars (\$300.00).
- ☐ Certification from the owner or lessee of the lot which authorizes the application for variance;
- ☐ An environmental assessment and or EIS, if required, prepared in accordance with HRS Chapter 343, and the environmental impact statement rules and applicable guidelines of the State of Hawai'i;
- ☐ The names, addresses, and the tax map key identification of owners of real property situated adjacent to and abutting the boundaries of the land on which the proposed structure or subdivision and/or landscaping is to be located; or operation is to occur (attach information);
- ☐ A site plan of the shoreline setback area, drawn to scale, showing:
  - ☐ Existing natural and man-made features and conditions within;
  - ☐ Existing natural and man-made features and conditions along properties immediately adjacent to the shoreline setback area and proposed improvements;
  - ☐ The certified shoreline and the shoreline setback line (submitted under **Part B**);
  - ☐ Contours at a minimum interval of two (2) feet unless waived by the Director; and
  - ☐ Proposed development and improvements showing new conditions with a typical section (if a structure).
- ☐ A copy of the certified shoreline survey map of the property (submitted under **Part B**);
- ☐ Detailed justification of the proposed project, which addresses the purpose and intent of these rules and the criteria for approval of a variance (attach written statement);
- ☐ Analysis and report of coastal erosion rates and coastal processes; and
- ☐ Any other information required by the Director (listed below).

Any structure approved within the shoreline setback area by variance shall not be eligible for protection by shoreline hardening during the life of the structure, and this limitation and the fact that the structure does not meet setback requirements under §8-27.3 and could be subject to coastal erosion and high wave action shall be written into a unilateral agreement that is recorded by the Bureau of Conveyances of Land Court, as the case may be. A copy of the unilateral agreement shall be submitted to the Planning Department prior to the issuance of the required zoning and/or shoreline setback variance. Failure of the grantor to record these deed restrictions shall constitute a violation and the grantor shall be subject to the penalties set forth in this Article 3.

For any structure approved within the shoreline setback area by variance, the Applicant shall agree in writing that the Applicant, its successors and permitted assigns shall defend, indemnify and hold the County of Kaua'i harmless from and against any and all loss, liability claim, or demand arising out of damages to said structure and this indemnification shall be included in the unilateral agreement required above.



## PLANNING DEPARTMENT SHORELINE SETBACK INFORMATION

Table 1. (This table is included for illustrative purposes only.)

Lots Included in the Kaua'i Coastal Erosion Study. The distance in feet of the shoreline setback line as measured from the certified shoreline based on the average lot depth in feet.

### LOTS INCLUDED IN KAUA'I COASTAL EROSION STUDY

Average Lot Depth	Setback Line
Less than 140 feet (<140 feet)	40 feet plus (70 X annual coastal erosion rate) plus 20 feet
140 feet to 220 feet (140-220 feet)	Greater of: 40 feet plus (70 X annual coastal erosion rate) plus 20 feet -or- (Average Lot Depth minus 100 feet) ÷ by 2 plus 40
Greater than 220 feet (>220 feet)	Greater of: 40 feet plus (70 X annual coastal erosion rate) plus 20 feet -or- 100 feet from the certified shoreline

View erosion rate maps from the County website at  
<http://www.soest.hawaii.edu/coasts/kauaicounty/KCounty.html>

Table 2. (This table is included for illustrative purposes only.)

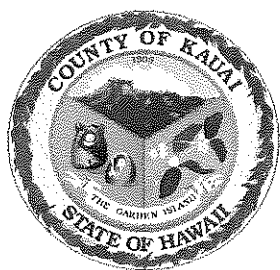
Lots Not Included in the Kaua'i Coastal Erosion Study.

### LOTS NOT INCLUDED IN KAUA'I COASTAL EROSION STUDY

Setback Calculation	
(Average Lot Depth – 100/2+40) Subject to the Following:	
1	For lots with naturally <i>occurring rocky shorelines</i> , the shoreline setback line shall be <b><u>no less than 40 feet.</u></b>
2	For all other lots, the shoreline setback line shall be <b><u>no less than 60 feet.</u></b>
3	For all lots, the <b><u>maximum</u></b> setback that can be required <b><u>shall be 100 feet.</u></b>

Non-Abutting Lots. If an Applicant is unable to secure permission from the abutting landowner to complete a certified shoreline for a non-abutting lot within approximately five hundred fifty (550) feet of the shoreline, the Planning Director may, pursuant to §8-4.3, impose conditions to zoning permits to increase setbacks where evidence exists that a proposed structure may be affected by coastal hazards or erosion.

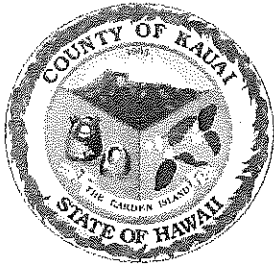




## PLANNING DEPARTMENT SHORELINE SETBACK INFORMATION

Table 3. This table is presented for **Exemption 3** (§8-27.7).

Permitted Structures within the shoreline setback area	
(a)	The following structures are permitted in the shoreline setback area. All structures and/or landscaping not specifically permitted in the section are prohibited without a variance.
(1)	Existing conforming and nonconforming structures/activities
(2)	Structure or activity that received a shoreline variance or administrative approval prior to February 26, 2008.
(3)	A structure or activity that is necessary for, or ancillary to, continuation of agriculture or aquaculture existing on the shoreline setback area on June 16, 1989.
(4)	"Temporary structures" as defined in Section 8-27.2. To ensure that there will be no irreversible or long-term adverse effects, the Director shall require as a condition of a permit the restoration of the site to its original condition or better, and the Director may require a bond to ensure such restoration.
(5)	A structure that consists of maintenance, repair, reconstruction, and minor additions or alterations of legal boating, maritime, or water sports recreational facilities, which are publicly owned, and which result in no interference with natural beach processes; provided that permitted structures may be repaired, but shall not be enlarged within the shoreline setback area without a variance.
(6)	Repairs to a lawfully existing structure, including nonconforming structures, provided that: <ul style="list-style-type: none"> <li>(A) The repairs do not enlarge, add to or expand the structure; increase the size or degree of non-conformity; or intensify the use of the structure or its impact on coastal processes;</li> <li>(B) The repairs do not constitute a substantial improvement of the structure; and</li> <li>(C) The repairs are permitted by the Comprehensive Zoning Ordinance, Development Plans, building code, floodplain management regulations, special management area requirements under HRS Chapter 205A and any other applicable rule or law.</li> </ul>
(7)	Beach nourishment or dune restoration projects approved by all applicable governmental agencies.
(8)	A structure approved by the Director as a minor structure.
(9)	Qualified demolition of existing structures.
(10)	Unmanned civil defense facilities installed for the primary purposes of: (i) warning the public of emergencies and disasters; or (ii) measuring and/or monitoring geological, meteorological and other events.
(11)	Scientific studies and surveys, including archaeological surveys.
(12)	Structures built by a governmental agency to address an emergency as declared by the Governor of the State of Hawai'i, the Mayor of the County of Kaua'i or any other public official authorized by the law to declare an emergency.
(13)	Structures relating to film productions that have received a County Revocable Film Permit. Structures undertaken for film productions must be removed within thirty (30) days following the completion of the film production.
(14)	Structures required for remedial and removal actions undertaken pursuant to Chapter 128D of the Hawai'i Revised Statutes.



## PLANNING DEPARTMENT SHORELINE SETBACK INFORMATION

(b)	The following conditions shall apply to any new structure permitted in the shoreline setback area:
(1)	All new structures shall be constructed in accordance with the standards for development in Chapter 15, Article 1, Flood Plain Management, Kaua'i County Code 1987, as amended, relating to coastal high hazard districts and FEMA guidelines regarding construction in areas mapped on Flood Insurance Rate Maps as flood hazard areas.
(2)	The applicant shall agree in writing that the applicant, its successors, and permitted assigns shall defend, indemnify, and hold the County of Kaua'i harmless from and against any and all loss, liability, claim or demand arising out of damages to said structures from any coastal natural hazard and coastal erosion.
(3)	The applicant shall agree in writing for itself, its successors and assigns that the construction of any erosion-control or shoreline hardening structure and/or landscaping shall not be allowed to protect the permitted structure during its life, with the exception of approved beach or dune nourishment fill activities, and landscape planting and irrigation located more than forty feet (40') from the shoreline.
(4)	Unless otherwise provided, all new structures and/or landscaping shall not: <ul style="list-style-type: none"> <li>(A) adversely affect beach processes,</li> <li>(B) artificially fix the shoreline,</li> <li>(C) interfere with public access or public views to and along the shoreline,</li> <li>(D) impede the natural processes and/or movement of the shoreline and/or sand dunes, or</li> <li>(E) alter the grade of the shoreline setback area.</li> </ul>
(5)	All new structures shall be consistent with the purposes of this article and HRS Chapter 205A, as amended, and shall be designed and located to minimize the alteration of natural landforms and existing public views to and along the shoreline.
(6)	The requirements of this Subsection (b) shall run with the land and shall be set forth in a unilateral agreement recorded by the applicant with the Bureau of Conveyances or the Land Court, whichever is applicable, no later than thirty (30) days after the date of final shoreline approval of the structure under Section 8-27.8. A copy of the recorded unilateral agreement shall be filed with the Director and the County Engineer no later than forty-five (45) days after the date of the final shoreline determination and approval of the structure and the filing of such with the Director shall be a prerequisite to the issuance of any related building permit.



**WALKER  
WARNER**

**WAHI LANI**  
HANALEI, HAWAII

Google Earth Map  
January 05, 2018



# LEGEND - SITE PLAN:

PROPERTY LINE

SETBACK LINE

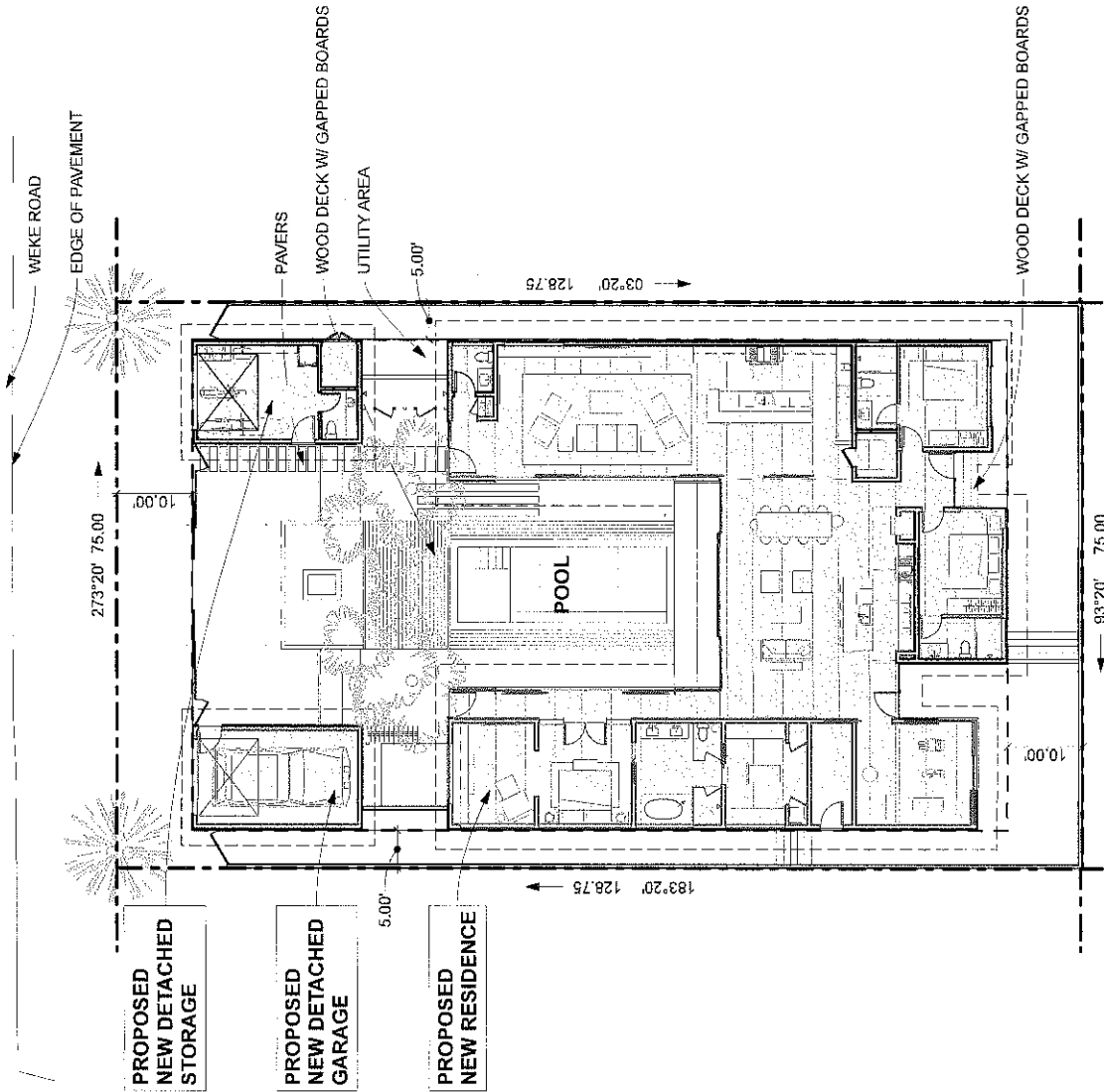
WOOD DECK W/ GAPPED  
BOARDS

(N) STRUCTURES

(N) HARDSCAPE, S.L.D.

PALM TREE, SINGLE TRUNK, +50' TALL, COCONUT  
PALM (COCOS NUCIFERA)

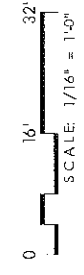
DWARF PALM TREE, MULTI-TRUNK, +8' TALL  
(PHOENIX ROEBELENI)



**WALKER  
WARNER**  
ARCHITECTS

**WAHI LANI**  
HANAIEI, HAWAII

**Site Plan**  
January 05, 2018



SHORELINE SETBACK DETERMINATION WORKSHEET

RECEIVED 11/10/11  
CONFIRM.

NAME RAKESH JOSHI (90 PALMS ARCH)

TMK (4) 5-4-008:051

AVERAGE LOT DEPTH 206'

220' + 193'

SHORELINE EROSION RATE 0'

✓ 50' WITH STAIR

SHORELINE SETBACK 106'

PROPOSED IMPROVEMENT SETBACK 500'

SUBSTANTIAL IMPROVEMENT LETTER ☒ YES ☐ NO

NEEDS SMA ☐ YES ☒ NO

NOT IN SMA

BUILDING PERMIT SUBMITTED ☒ YES ☐ NO

BPA 17-2459

BUILDING PERMIT FORWARDED ☐ YES ☐ NO

ZONING PERMIT ☐ YES ☐ NO

PLANNING COMMISSION ☒ YES ☐ NO

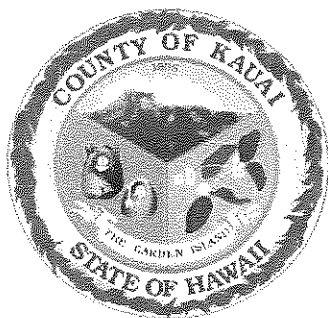
POSITIVE

PC DATE \_\_\_\_\_

BUILDING PERMIT # \_\_\_\_\_

PENDING ITEMS/DATE ADVISED





## PLANNING DEPARTMENT SHORELINE SETBACK APPLICATION

FOR OFFICIAL USE ONLY:	
SSD	2018 - 31
Acceptance Date:	1-16-18
Website Posting Date:	
Determination Date:	
Planning Commission Date:	
Expiration Date:	
Planner Assigned:	

BPA - 17-2259

**Instructions:** File all information requested under Part A for processing the Determination of Applicability (§8-27.1), including signature page. Fill out Parts A and B if you know that your parcel will require a Certified Shoreline Survey, due to the proximity to the shoreline. If you are proposing a permitted structure or subdivision within the shoreline setback area fill in Part C. For applications involving a variance, complete Part D.

Applicant Information	
Applicant:	Rakesh Joshi c/o Palms Hawaii Architecture
Mailing Address:	2970 Kele St. Suite 115 Lihue HI 96766
Phone:	808-246-4796
Email:	andrea@palms-hawaii.com
Applicant's Status: (Check one)	
<input type="checkbox"/> Owner of the Property	(Holder of at least 75% of the equitable and legal title)
<input type="checkbox"/> Lessee of the Property	Lessee must have an <b>unexpired and recorded</b> lease of five (5) years or more from the date of filing of this application. If not, Owner(s) must provide a Letter of Authorization.
<input checked="" type="checkbox"/> Authorized Agent	Attach Letter of Authorization
Transmittal Date:	12/4/2017

Project Information (attach additional sheets, if necessary)	
County Zoning District:	R- Tax Map Key(s): (4) 5-4-008-051
	Land Area: 12,736 sf
Nature of Development: (Description of proposed structure or subdivision)	After the fact permit for a stair addition to existing dwelling

**NO PERMITS WILL BE ISSUED WITHOUT PLANNING COMMISSION ACCEPTANCE,  
EXCEPT AS PROVIDED IN §8-27.8(c)(8)**

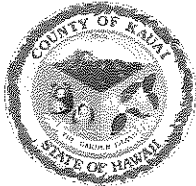
### Part A

#### Shoreline Setback Determination of Applicability (§8-27.1)

Check all that apply, fill in applicable information. Any box checked must be accompanied by additional information, photos and/or documentation.

- Property is Abutting the Shoreline  
☐ Proposed project's approximate distance from shoreline (based on aerial map): \_\_\_\_\_ ft.
- Property is Not Abutting the Shoreline  
☒ Proposed project's approximate distance from shoreline (based on aerial map): 520 ft.
- Additional Information:  
☒ Shoreline Change (Erosion/Accretion) Rate: -0.3 ft/yr ft./year  
(Information available here: [www.soest.hawaii.edu/coasts/kauaicontry/KCounty.html](http://www.soest.hawaii.edu/coasts/kauaicontry/KCounty.html))  
☒ Number and description of parcels (including roads, buildings, structures) between Shoreline and this parcel:

The parcel is located on a cul-de-sac (Punahale Rd) in Princeville subdivision. There are 2 dwellings that are closer to the shoreline below.



## PLANNING DEPARTMENT SHORELINE SETBACK APPLICATION

- ☒ Topography (undulating, flat, slope, etc.) and ground elevation of subject parcel (Lowest and Highest elevations)

relatively flat ground elevation

- ☒ Shoreline type (e.g. beach, dune, rocky, sandy with rocky outcropping, etc.)

rocky cliff

- ☐ Artificially armored Shoreline

☐ If checked, what type of armoring (e.g. seawall, revetment, bulkhead): \_\_\_\_\_

☐ Is the armoring permitted/authorized? \_\_\_\_\_

☐ Date of authorization (attach copy of authorization letter): \_\_\_\_\_

- ☐ Is property in coastal floodplain (if checked, what zone)? \_\_\_\_\_

- ☒ Has this property been subject to coastal hazards (i.e. flooding, erosion, tsunami, etc.) in the past?

No

### PLEASE NOTE:

Any misrepresentation of information in this shoreline setback application will result in revocation of this determination and may result in fines and criminal prosecution.

### Applicant's Signature

  
Signature

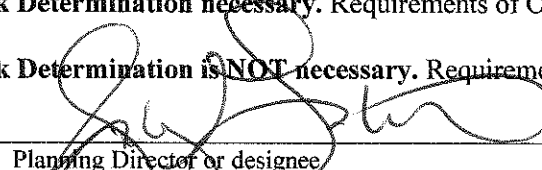
12-4-2017

Date

### Applicability (to be completed by Planning Department)

- ☒ **Setback Determination necessary.** Requirements of Ordinance No. 979 are applicable.

- ☐ **Setback Determination is NOT necessary.** Requirements of Ordinance No. 979 are not applicable.

  
Planning Director or designee

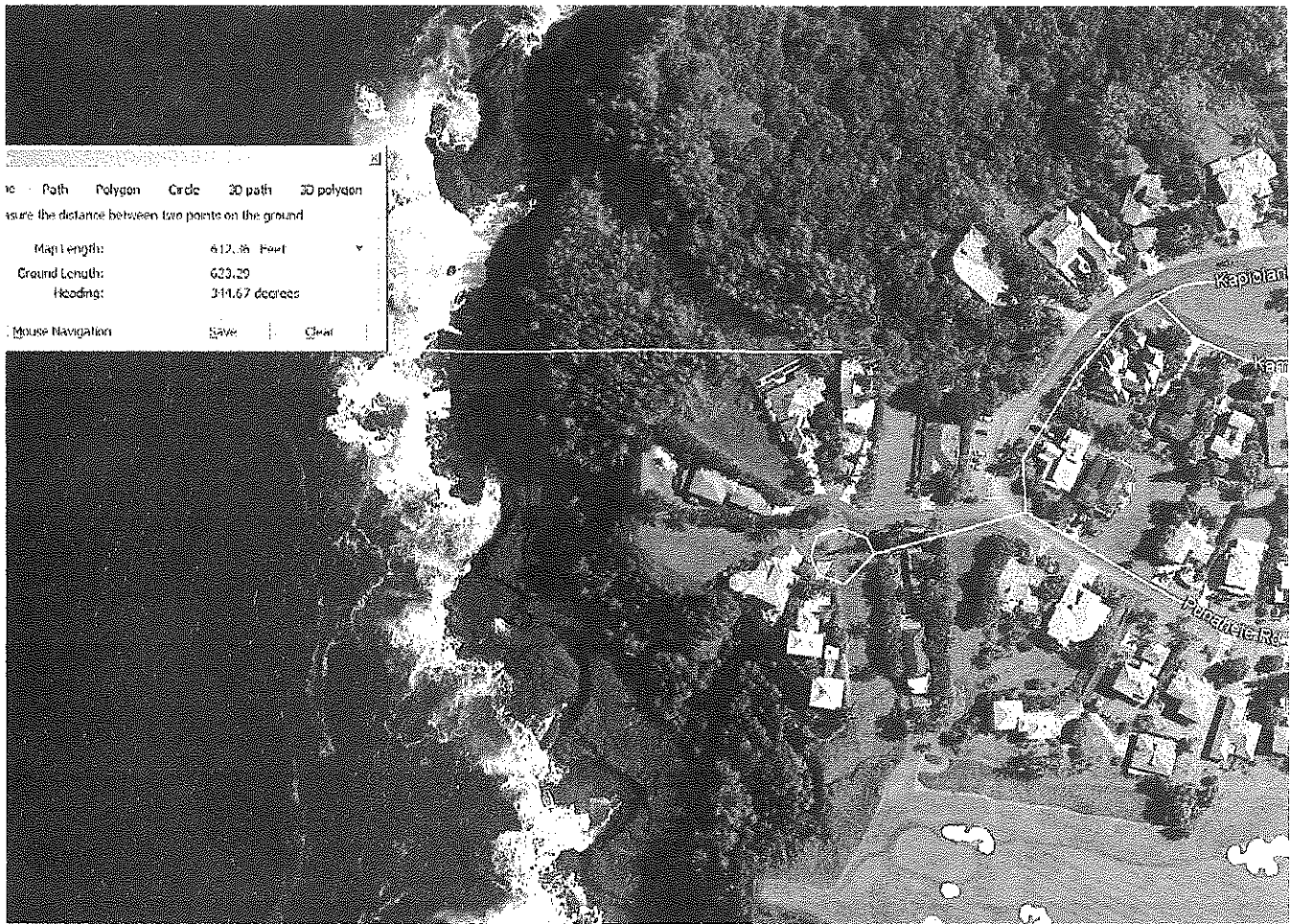
1-16-18  
Date

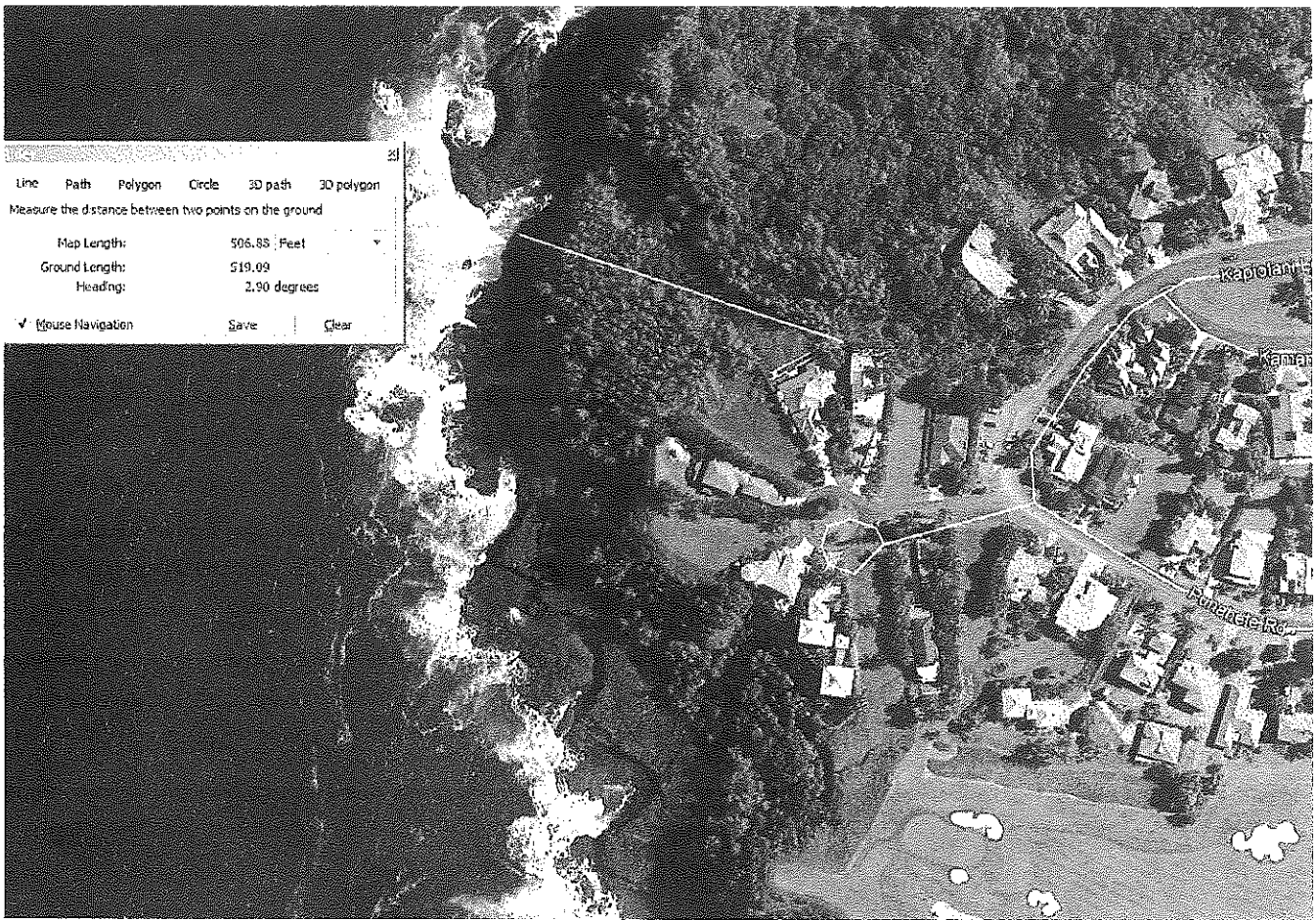
If **Part A** has been deemed that a Determination will be necessary, the additional information will be required for submission of this application.

### Part B

- ☐ A non-refundable processing fee of **one hundred dollars (\$100.00)** shall accompany a request for determination. (§8-27.8(e))
- ☒ An aerial map/image (ex. Google Maps or Google Earth) with a line drawn from the shoreline/vegetation line (approximate shoreline) to the proposed project and the calculated distance in feet.
- ☒ A detailed Plot Plan to scale with all existing and proposed structures including driveways, visible lot coverage, setbacks and measurement details, fences, gates, and walls, etc.
- ☐ Building Permit Number (If building plans submitted)







**Bernard P. Carvalho Jr.**  
Mayor



**Lyle Tabata**  
Acting County Engineer

**Wallace G. Rezentes Jr.**  
Managing Director

**DEPARTMENT OF PUBLIC WORKS**  
**County of Kaua'i, State of Hawai'i**  
4444 Rice Street, Suite 275, Lihu'e, Hawai'i 96766  
TEL (808) 241-4992 FAX (808) 241-6604

December 14, 2017

Palms Hawai'i Architecture  
2970 Kele Street Suite 115  
Lihu'e HI 96766

Subject: SHORELINE SETBACK APPLICATION  
SUBSTANTIAL IMPROVEMENT DETERMINATION  
RAKESH JOSHI – STAIRS ADDITION  
TMK: (4) 5-4-008:051

**PW 12.17.027**

To whom it may concern;

The Kauai County Shoreline Setback and Coastal Protection Ordinance (Ordinance No. 979) Section 8-27.2 defines substantial improvement as "any cumulative series of repairs, reconstruction, improvements, or additions to a structure over a ten (10) year period, where the cumulative cost equals or exceeds fifty percent (50%) of the market value of the structure before the start of construction of the first improvement during that ten (10) year period. For the purposes of this definition, substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure."

The Department of Public Works (DPW) Engineering Division has reviewed the after the fact stair additions to the existing dwelling. DPW has determined that the improvements do not constitute a substantial improvement. A summary of the calculations follows.

***Market Value***

There were no building permits approved for the structure within the past 10 years. Therefore, the market value used in the calculations is the current Replacement Cost New Less Depreciation (RCNLD) value for the structure as determined by the County's Real Property Assessment Division. The 2017 RCNLD was determined to be \$1,217,100. If the owner chooses to dispute this value, then an appraisal of the structure must be provided at the owner's expense. The appraisal shall be prepared by a professional appraiser licensed in the State of Hawai'i and the market value shall be based on the "Cost Approach" (or Replacement Cost New Less Depreciation).

Rakesh Joshi  
Shoreline Setback Application – Substantial Improvement Determination  
December 14, 2017

***Cost of Improvements***

The total cost of improvements for the after the fact stair additions to the existing dwelling is taken to be the estimated value of \$10,000 as shown on the Building Permit Application. The total cost is summarized as follows for the past 10 years:

***Summary***

The cost of improvements compared to the market value is:

$$\frac{\text{Cost of Improvements (past 10 years): } \$10,000}{\text{Market Value (Real Property): } \$1,217,100} = 0.0082 \text{ or } 0.82\%$$

Since the total cost does not exceed 50% of the market value, the improvement is not considered to be substantial. Based on our records there were no other permits for the structure within the past ten years. However, if any unpermitted work has been done, or if there are modifications to this application, our determination shall be considered void and the structure must be re-evaluated.

If you have any questions or need additional information, contact Stanford Iwamoto at (808) 241-4896 or [siwamoto@kauai.gov](mailto:siwamoto@kauai.gov).

Sincerely,



MICHAEL MOULE, P.E.  
Chief, Engineering Division

SI/BV

Copy: Design and Permitting  
Planning